

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

MICHAEL CRISTO,
Plaintiff,

VS.

C.R. ENGLAND, INC. and
KUDOSE ETECHA WAYESSA,
Defendants.

§
§
§
§
§
§
§
§

C.A. NO.: _____

JURY DEMAND

PLAINTIFF'S ORIGINAL COMPLAINT & JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff, MICHAEL CRISTO, complaining of C.R. ENGLAND, INC. and KUDOSE ETECHA WAYESSA, herein called Defendants, as follows:

1.0 PARTIES

1.1 Plaintiff, MICHAEL CRISTO, is a resident of Converse, Bexar County, Texas. The last three numbers of his Texas Driver's license number are 990, and the last three numbers of his Social Security number are 037.

1.2 Defendant KUDOSE ETECHA WAYESSA is a resident of Minnesota. The last three digits of his driver's license number are 305 and the last three digits of his social security number are unknown. Defendant WAYESSA may be served with process at 11137 Cresthaven Trail, St. Paul, Minnesota 55129, or wherever he may be found, by private process.

1.3 Defendant, C.R. ENGLAND, INC. is a foreign for-profit corporation doing business in the State of Texas. Defendant C.R. ENGLAND, INC. may be served with citation by serving its registered agent CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Dallas County, Texas 75201.

2.0 JURISDICTION

2.1 Pursuant to 28 U.S.C. §1332(a), this Court has original, diversity jurisdiction over Plaintiff's claims, because the Plaintiff and Defendants are citizens of different states and the amount in controversy sought by Plaintiff exceeds \$75,000, exclusive of interest and costs.

3.0 VENUE

3.1 Venue is proper in the Western District of Texas because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in this District. 28 U.S.C. §1391(b)(2).

4.0 FACTS

4.1 Plaintiff brings this action to recover damages for personal injuries sustained by him as a result of the negligence of Defendants, C.R. ENGLAND, INC. ("C.R. ENGLAND") and KUDOSE ETECHA WAYESSA ("WAYESSA"), relating to the operation of a 2017 Freightliner tractor-trailer on or about April 10, 2018, that caused a motor vehicle collision with Plaintiff.

4.2 On or about April 10, 2018, Plaintiff MICHAEL CRISTO was traveling northeast bound in the 200 block of IH-35 North in a 2009 Chevrolet Malibu.

4.3 Defendant WAYESSA, who was operating a 2017 Freightliner tractor, was also traveling northeast bound in the outside lane to the right of Plaintiff in the 200 block of IH-35 North.

4.4 The Freightliner tractor was owned by Defendant C.R. ENGLAND.

4.5 The tractor was towing a 2015 trailer owned by Marten Transport LTD.

4.6 Defendant C.R. ENGLAND hired, qualified, and retained Defendant WAYESSA as a truck driver.

4.7 At all times relevant to this lawsuit, Defendant WAYESSA was acting in the course and scope of his of his actual and/or statutory employment with Defendant C.R. ENGLAND.

4.8 Defendant WAYESSA suddenly and without warning, made an unsafe lane change into

the lane Plaintiff was traveling and struck his vehicle.

4.9 As a result of this collision, Plaintiff MICHAEL CRISTO suffered injuries and damages.

4.10 The collision in issue in this action was in no way due to any negligent act or failure to act on the part of the Plaintiff.

5.0 CAUSES OF ACTION—NEGLIGENCE AND GROSS NEGLIGENCE OF WAYESSA

5.1 Defendant WAYESSA was negligent in the operation of the tractor-trailer. Specifically, Defendant WAYESSA:

- 5.1.1 Changed lanes when unsafe;
- 5.1.2 Was inattentive in his driving practices;
- 5.1.3 Failed to keep a proper lookout;
- 5.1.4 Failed to control his speed;
- 5.1.5 Failed to timely apply his brakes; and
- 5.1.6 Drove while distracted.

5.2 The aforesaid conduct amounts to grossly negligent, wanton and dangerous conduct and reckless disregard for the lives and safety of others.

6.0 CAUSES OF ACTION—C.R. ENGLAND

6.1 At the time of the collision made the basis of this suit, Defendant C.R. ENGLAND was the owner of the tractor which was driven by Defendant WAYESSA.

6.2 Defendant C.R. ENGLAND is vicariously liable for the negligent conduct of its agents, servants, employees, representatives, vice-principals, assignees and contractors.

6.3 Defendant C.R. ENGLAND is also liable for negligent hiring, controlling, and/or supervising it employees that have engaged in negligent behavior.

6.4 Defendant C.R. ENGLAND is vicariously liable for the conduct of its agents, servants,

employees, representatives, vice-principals, assignees and contractors who Defendant C.R. ENGLAND negligently hired, negligently controlled, and /or performed non-delegable duties, acting within the course and scope of their employment, including and not limited to, any and all acts and omissions pursuant to Defendant's authority and permission.

7.0 DAMAGES

7.1 Plaintiff seeks to recover the following elements of damages, which were proximately caused by Defendant's negligence:

- 7.1.1 Medical and life care expenses, past and future;
- 7.1.2 Lost wages and earning capacity, past and future;
- 7.1.3 Physical impairment, past and future;
- 7.1.4 Physical pain, emotional distress, and mental anguish, past and future; and
- 7.1.5 Disfigurement, past and future.

7.2 Plaintiff also seeks to recover prejudgment interest, post-judgment interest, court costs, and any other damages allowed in equity or in law.

8.0 PUNITIVE DAMAGES

8.1 The Defendants, by their acts and omissions as set forth above, acted toward the Plaintiff with oppression, fraud, malice, gross negligence and/or reckless disregard for the lives and safety of others to a degree sufficient to warrant the imposition of punitive damages to deter such further conduct on behalf of Defendants or similarly situated parties, in an amount which exceeds the jurisdictional minimum of this Court.

9.0 JURY DEMAND

9.1 Plaintiff respectfully requests a Jury in this matter.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation be issued and Defendants be served, and upon trial on the merits the Court enter judgment for Plaintiff and against Defendants, jointly and severally, for actual damages, together with prejudgment interest, post-judgment interest, court costs, and punitive damages.

Respectfully submitted,

CROSLEY LAW FIRM, P.C.
3303 Oakwell Court, Suite 200
San Antonio, Texas 78218
Telephone No.: (210) 529-3000
Facsimile No.: (210) 444-1561
Service Email: service@crosleylaw.com

By: /s/ R. Andrew Rodriguez

R. Andrew Rodriguez
Texas Bar No. 00798469
andy@crosleylaw.com
Thomas A. Crosley
Texas Bar No. 00783902
tom@crosleylaw.com

ATTORNEYS FOR PLAINTIFF